

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

**CONFIDENTIAL:
FILED "UNDER SEAL"**

JAMES ZIMMERMAN, PHILIP CULHANE,
DAVID HILTBRAND, WILLIAM JACKSON,
GEORGE ZAROU, JOHN JOSEPH PAGGIOLI
(Formerly "JOHN DOE I"), "JOHN DOE II," "JOHN
DOE III," and "JOHN DOE IV,"

Plaintiffs,

- against -

POLY PREP COUNTRY DAY SCHOOL, WILLIAM
M. WILLIAMS, DAVID B. HARMAN, VARIOUS
MEMBERS OF THE POLY PREP BOARD OF TRUSTEES,
WHOSE NAMES ARE CURRENTLY UNKNOWN AND
THUS DESIGNATED AS "JAMES DOE I-XXX," HARRY
PETCHESKY, ESQ., ROBERT F. HERRMANN, ESQ.,
STEVEN ANDERSEN and RALPH DUPEE,

09 Civ. 4586 (FB)(CLP)

Defendants.

PLAINTIFFS' NOTICE OF MOTION

PLEASE TAKE NOTICE that upon Plaintiffs' Memorandum of Law, dated July 22, 2011, and the Declaration of Kevin T. Mulhearn, dated July 22, 2011, and the exhibits attached thereto, each of which shall be filed "Under Seal" with this Court, Plaintiffs, JAMES ZIMMERMAN, PHILIP CULHANE, DAVID HILTBRAND, WILLIAM JACKSON, GEORGE ZAROU, JOHN JOSEPH PAGGIOLI, JOHN DOE II," "JOHN DOE III," and "JOHN DOE IV," will move this Court, before the Hon. Cheryl L. Pollak, in Courtroom 13B-South, located at 225 Cadman Plaza East, Brooklyn, New York 11201, at a time and place to be set by the Court, for an Order against Defendants, POLY PREP COUNTRY DAY SCHOOL, WILLIAM M. WILLIAMS, DAVID B. HARMAN, AND VARIOUS MEMBERS OF THE POLY PREP

BOARD OF TRUSTEES, WHOSE NAMES ARE CURRENTLY UNKNOWN AND THUS DESIGNATED AS "JAMES DOE I-XXX," for additional discovery, pursuant to FRCP 26 and 37 and the Court's inherent authority, in which this Court shall invoke the crime-fraud exception to the attorney-client and work product privileges asserted by Defendants in this case, and compel Defendants to produce additional responsive documents in unredacted form, and which shall permit Plaintiffs to take additional depositions of Roderick MacLeish, Esq. and Jeffrey Newman, Esq., and which shall compel Defendants to pay Plaintiffs' costs and expenses, including reasonable attorneys' fees and transcription fees, for all such additional and further depositions and related discovery, as well as Plaintiffs' attorneys' fees incurred in the preparation of this motion; or in the alternative, for the Court to order an *in camera* review of various documents to determine, in the Court's good discretion, whether they must be produced to Plaintiffs, and grant Plaintiffs any other, further, or different relief as to which this Honorable Court may seem just, proper, or necessary.

Dated: July 22, 2011
Orangeburg, New York

Respectfully submitted,

KEVIN T. MULHEARN, P.C.

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